IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 1340 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE A.L.DAVE
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JOITAABHAI MAGANLAL - Appellant(s)
Versus
STATE OF GUJARAT - Opponent(s)

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Appearance :
1. MS SADHANA SAGAR for Appellant(s) : 1,
2. MR KP RAWAL, APP for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE A.L.DAVE

and

HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 16/03/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE BANKIM.N.MEHTA)

1. The appellant original accused No.1-

Joyatabhai Maganbhai has preferred this appeal under Section 374 (2) of the Code of Criminal Procedure, 1973 and challenged the judgment and order dated 10-9-1999 passed by the learned Addl. Sessions Judge, Mehsana camp at Patan in Sessions Case No. 304 of 1998, convicting him for the offence punishable under Section 302 of the I.P. Code and sentencing him to undergo life imprisonment and to pay fine of Rs.1000/- in default to undergo simple imprisonment for two months and also convicting him for the offence punishable u/s 201 of the I.P. Code and sentencing him to undergo rigorous imprisonment of 9 months and to pay fine of Rs.500/- and in default, to undergo simple imprisonment of two months. The learned trial Judge directed that both the sentences shall run concurrently.

2. In brief, the prosecution case was that appellant – accused No. 1 - Joyatabhai and accused No. 2 – Bhangi Amaratbhai Maganbhai were brothers and sons of accused No. 4 – Bhangi Maniben Maganbhai and accused No. 3 – Gajaraben Maganbhai was sister of appellant Joyatabhai and accused Amaratbhai and daughter of accused No.4 - Maniben. The accused were residing at Nava - Sampra / Mahadevpura village in Vagdod Taluka, District Patan. Deceased Ramesh Visabhai residing

at Ahmedabad was known to the accused and had good relations with them. The husband of accused No. 4 Maniben and father of accused No. 1 to 3 Maganbhai Ganabhai was the maternal uncle of the mother of complainant and deceased Ramesh. Therefore, Ramesh was frequently visiting the accused and some time was staying overnight at the house of the accused. Before about six months of the incident, the husband of accused Maniben had expired, and therefore, deceased Ramesh advanced Rs.15,000/- to the accused No.4 Maniben to meet with the expenses of after-death ceremony of Maganbhai Ganabhai. Thereafter, another amount of Rs.6000/- was advanced by deceased Ramesh to the accused at the time of marriage of son of Kantibhai. On 20-9-1998 deceased Ramesh came to the house of the accused at Sampra village. On inquiry with the family members for reason to go Sampra village the complainant was informed that accused NO.4 Maniben had demanded Rs.1,500/- from Ramesh as she wanted that amount to obtain divorce of her daughter therefore Ramesh had gone with Rs.1,500/- and had paid the same to the accused. Thereafter, on 22-9-1998 appellant – accused No. 1 Joyatabhai came to the house of the complainant and informed that Ramesh has fallen seriously ill and therefore they should go to Sampra village. On inquiry about sickness of

Ramesh appellant - accused No.1 Joyatabhai did not give proper reply, therefore the complainant and his other family members came to village Sampra at 6-00 a.m. on 23-9-1998 and came to know that Ramesh has died on account of strangulation in the hut of accused No.4 Maniben and saw the dead body hanging in the hut. Therefore, they suspected about sudden death of Ramesh and so brother of deceased Amaratbhai gave an application to Vagdod Police Station to make investigation. Thereafter, the dead body was taken to the hospital for postmortem and it was revealed by the Doctor that death of Ramesh is caused by strangulation. Therefore, complainant suspected that keeping a grudge and raising dispute about the money transactions accused shared common intention and caused death of Ramesh by strangulation between 19-00 hours of 20-9-1998 and 12-45 hours of 22-9-1998 and hanged the dead body to make a show that Ramesh has committed suicide and thereby tried to disappear the evidence of commission of offence with an intention of screening themselves from legal punishment and gave false information in respect of the offence.

3. Initially on the basis of the application given by Amaratbhai Visabhai, the brother of Ramesh Visabhai incident was registered as

Accidental Death No.1 of 1998 u/s 174 of the Code of Criminal Procedure at 15-30 hours. The Panchanama of scene of offence and inquest panchanama were drawn. The dead body was sent for postmortem. Thereafter, on the basis of the complaint lodged by Gafurbhai Visabhai offence was registered as I. CR No. 73 of 1998 at Vagdod Police Station for the offence punishable u/s 302 and 201 of the I.P. Code and investigation was started. During the course of the investigation, statement of the witnesses were recorded and the accused were arrested.

4. On completion of the investigation, charge sheet was laid before the Court of the learned Judicial Magistrate, First Class, Patan for the offence punishable under Sections 302 and 201 of the I.P. Code. As the offence was exclusively triable by the Court of Sessions, the case was committed to the Sessions Court, Mehsana camp at Patan and it was registered as Sessions Case No. 304 of 1998. The learned Addl. Sessions Judge, Mehsana camp at Patan framed charge at Exh. 6 against the accused for the offences punishable section 302, 34 and 201 of the I.P. Code and the same was read over and explained to the accused who pleaded not guilty to the charge and claimed to be tried. Therefore, the prosecution adduced evidence to

prove the charge levelled against the accused. On completion of recording of evidence by prosecution the learned trial Judge explained to the accused the incriminating circumstances appearing against the accused in the evidence. The appellant and other accused explained the incriminating circumstances in their further statement recorded u/s 313 of the Code of Criminal Procedure, 1973. Appellant accused No. 1 Joyatabhai and accused NO. 2 – Amaratbhai in their further statement explained the incriminating circumstances by stating that they have been falsely implicated in the offence and they are innocent; that they came to know about death of Ramesh Visabhai only when the police came to their village. It is also explained that they do not reside in the house from where the dead body was found. However, the appellant admitted that before the incident on 18th or 19th, September, 1998 Ramesh had come to Sampra village and also admitted that appellant Joyatabhai came to Ahmedabad to inform the family members of Ramesh that Ramesh has fallen sick and to call them to Sampra village.

5. Accused No.3 Gajaraben Maganbhai in her further statement stated that she had illicit relations with deceased Ramesh Visabhai before five to six years of the incident and on the day

of her divorce deceased Ramesh had come to Patan; that thereafter all of them went to Sampra village from Patan; that on the next day after taking meal at the house of her brother at old Sampra she came to her hut at Nava Sampra village for taking bath; that deceased Ramesh also followed her and requested to marry him after having intercourse but she refused to marry as they were relatives and told him that she would keep relations with him; that thereafter she went for bath at the pond; and nobody was present in the hut; that Ramesh felt offended as she refused to marry him and when she returned home she saw that the deceased was hanging; that she is innocent and she has not committed any offence.

6. Accused No.4 Maniben Maganbhai in her further statement stated that she came to her hut at night from the house of her son and saw that dead body of Ramesh was hanging in the hut; that she does not know as to how Ramesh died; that she and her daughter Gajaraben reside in the said hut and her sons reside in Harijanvas in their respective huts in old village; that she is innocent and has not caused injuries.

7. After hearing the learned A.P.P. for the State and the learned advocate for the accused,

the learned trial Judge found the accused No. 1 Joyatabhai guilty for the offence punishable under Section 302 and 201 of the I.P. Code and sentenced him to undergo the sentence as mentioned hereinabove. The other accused were acquitted of the offence punishable u/ss 302 and 34 of the I. P. Code but convicted them for the offence punishable u/s 201 of the I.P. Code and sentenced them to undergo imprisonment of 9 months and to pay fine of Rs.500/-, in default, to undergo further simple imprisonment of two months. Being aggrieved and dissatisfied by the impugned judgment, the accused No.1 - Joyatabhai has preferred the present appeal.

8. We have heard the learned advocate Ms. Sadhana Sagar for the appellant and Mr. K.P. Rawal, learned A.P.P. for the State at length and in great detail. We have also perused the judgment of the trial court as well as the record and proceedings of the case.

9. Learned advocate Ms. Sadhana Sagar for the appellant submitted that there is no direct evidence to connect the appellant with the offence. The learned trial Judge convicted the appellant only on the basis of the circumstantial evidence. The evidence indicates that deceased

Ramesh died on account of strangulation, but it does not conclusively prove that death was homicidal. Looking to the place of the incident and the fact that accused Gajaraben/Gajiben had refused to marry deceased Ramesh, he committed suicide by hanging himself. Appellant himself had informed the family members of the deceased with regard to illness of deceased Ramesh by coming to Ahmedabad and the appellant was not present at the time of alleged commission of the offence. She also submitted that the appellant was not residing in the house from where the dead body was found but it was occupied by accused No.3 Gajaraben and accused No.4 Maniben. She submitted that the motive behind the offence is the money advanced to the accused by the deceased but the prosecution has not produced any evidence in that regard and therefore there was no motive on the part of the appellant to commit the offence. Therefore, the conviction of the appellant requires to be set aside and the appeal deserves to be allowed.

10. While opposing the appeal, the learned A.P.P. Mr. Rawal submitted that the accused are family members and it is an admitted fact that there were illicit relations between accused Gajaraben and the deceased. Therefore, the appellant had reason to commit the offence. He

submitted that though there may not be any evidence with regard to the outstanding amount. However, it is not always necessary that there should be presence of motive for the commission of offence. He also submitted that dead body was found from the house of the accused and it remained there for about 4 days. The accused have not offered any explanation in that regard. The medical evidence indicates that it was homicidal death and therefore the learned trial Judge was justified in convicting the appellant for the offence punishable u/s 302 and 201 of the I.P. Code and no interference is warranted in the impugned judgment.

11. The prosecution produced the application Exh.17 given by Amaratbhai Visabhai the brother of deceased Ramesh to Vagdod Police Station on 23-9-1998. The application indicates that deceased Ramesh was his brother and they with other brothers reside at Ahmedabad. It is further stated that accused No.3 – Gajaraben was the daughter of Maganbhai, the maternal uncle of mother of Amaratbhai Visabhai and they had received news to come to dissolve the marriage of accused Gajaraben/Gajiben. Therefore, his brother Ramesh was sent to Sampra village from Ahmedabad on Sunday. Thereafter on the previous day appellant – accused No. 1 - Joyatabhai came to the house of Amaratbhai at about 3-00 p.m.

from Sampra village and informed that Ramesh who had come to his house died on account of sickness. Therefore, Amaratbhai and others came to Sampra village early in the morning and made inquiry with regard to cause of death of Ramesh but they did not get satisfactory reply, and therefore, made the application to make investigation with regard to cause of death of Ramesh.

12. The application was registered at 15-30 hours on 23-9-1998 at the police station as Accidental Death No.1/98 under Section 174 of the Code of Criminal Procedure, 1973 by Vagdod Police Station. Pursuant to the same the panchanama of scene of offence Exh. 18 and inquest panchanama Exh. 15 were drawn. Thereafter Gafurbhai Visabhai lodged the complaint Exh.13. On the basis of the complaint offence was registered as stated hereinabove and the investigation was carried out.

13. The prosecution case indicates that there is no eye witness to the incident and the case is based on circumstantial evidence. One of the strong circumstance is that the dead body was found from the hut which was occupied by accused No. 3 Gajaraben and accused No. 4 Maniben. The appellant has put up a defence of suicide. Therefore, the evidence is required to be

examined carefully to decide as to whether it was a suicidal or homicidal death and if it was homicidal death whether the appellant was involved in the homicidal death.

14. In order to prove that death of deceased Ramesh was homicidal in nature, the prosecution examined P.W. 8 Dr. Bhagvatiprasad Ramdas Patel at Exh. 24 who performed postmortem of deceased Ramesh. According to the witness the injuries found on the dead body were recorded in postmortem report Exh. 25. According to him, the cause death was Asphyxia (prevention of air entry into the lungs due to strangulation). The witness opined that except ligature marks on neck no other external injury was found on the dead body and Injury No. 2 recorded in Column No. 17 of the postmortem report is possible when there is use of force while strangulation. The doctor also opined that death was homicidal and denied that it was suicidal death.

15. The prosecution also produced postmortem report at Exh. 25. It indicates the injuries found on the dead body and the cause of death.

16. The Doctor gave specific opinion that the death was homicidal and not suicidal. In view of this medical evidence, we are of the considered view that death of Ramesh was homicidal in

nature and not suicidal.

17. In order to connect the accused with the death, the prosecution examined P.W. 1 Gafurbhai Vishabhai Makwana at Exh. 12. The witness was the brother of deceased Ramesh. According to the witness, the accused were in need of money as accused Gajaraben @ Gajiben was to obtain divorce, and therefore, accused demanded money from his brother Ramesh who went to village Sampra with money on 18-9-1998 or 19-9-1998. The evidence also indicates that thereafter the appellant came to Ahmedabad at the witness's house and informed him that Ramesh was sick. On inquiry about nature of sickness, the appellant informed that Ramesh had diarrhea. Therefore, the witness and other family members first went to Kanakpura village and informed their other relatives about sickness of Ramesh. Thereafter, all of them went to village Sampra and saw that dead body was hanging in the hut. The evidence also indicates that they did not touch the dead body and informed the police who came at the place of the incident and took it to the hospital for postmortem but as it was night postmortem was performed on the next morning and the Doctor opined that Ramesh was killed by strangulation, and therefore, complaint was filed. The evidence further indicates that Ramesh had advanced certain amounts to the accused on

different occasions and the witness apprehended that the accused had killed Ramesh as they did not want to repay the amount. It transpires from the evidence that the accused and the complainant were relatives and accused Gajaraben used to visit the witness whenever she visited Ahmedabad. The evidence also indicates that the appellant after informing the witness about sickness of Ramesh returned to village Sampra with the complainant and his family members in the same vehicle and got down at Patan and thereafter the complainant and others went to Anandpura village where they received information that deceased Ramesh had died. The witness also clarified that they went to Anandpura but inadvertently it was mentioned as Kanakpura. The evidence also indicates that the witness did not know about the illicit relation between deceased and accused Gajaraben/Gajiben but their relations were talk of the town. The witness denied that deceased Ramesh committed suicide as he and accused Gajaraben were relatives and marriage was not possible on account of such relation and also denied that Ramesh committed suicide as accused Gajaraben refused to marry him. In view of this evidence, it becomes clear that before the incident i.e. either on 18th or 19th Ramesh came to Sampra village and thereafter appellant went to Ahmedabad to inform the family members of

Ramesh about the alleged sickness of Ramesh. There is no evidence to show that Ramesh fell sick. There is no dispute that deceased Ramesh came to the house of the accused before the incident. If we accept the explanation that Ramesh fell sick at the house of the appellant and so the appellant went to inform the family members about the sickness, the conduct of the appellant appears to be suspicious. Normally, if a guest falls sick the host would arrange for medical treatment. In the present case according to the appellant Ramesh had diarrhoea. The ailment was not so serious which would require expensive or specialised treatment. The appellant could have made arrangement for treatment. But there is no evidence to indicate that the appellant tried to give medical treatment to Ramesh. It is very strange that instead of making arrangement to give medical treatment, the appellant himself came down to Ahmedabad to inform about sickness. In our view, the conduct of the appellant is not natural. Therefore, in our view the appellant came to inform the family members of Ramesh only with a view to show that Ramesh was sick and died natural death. However, we are unable to believe that appellant was not involved in the incident. As regards the prosecution case of moneys allegedly advanced by deceased Ramesh to the accused and his illicit relations with accused Gajara, the

witness has no personal knowledge. Therefore, prosecution case in that regard does not get any support from the witness.

18. The prosecution produced complaint at Exh. 13. It is alleged therein that the complainant came to know that accused No. 4 Maniben took Rs.15,000/- from Ramesh thereafter again Rs.6000/- at the time of marriage of her son and thereafter again took Rs.1,500/- from him when her daughter - accused No. 3 Gajaraben was to take divorce on 20-6-1998. It is further alleged by the complainant that he came to know that on 20-9-1998 Ramesh went to village Sampra to give money to the accused. On 22-9-1998 the appellant came to his house at Ahmedabad and informed that Ramesh has fallen sick and requested him to come to Sampra village. On inquiry about sickness the appellant did not give proper reply. Therefore the complainant and his family members reached at Sampra village at 6-00 in the morning of 23-9-1998 and came to know that Ramesh has died on account of strangulation in the house of accused No. 4 Maniben. On making inquiry with regard to cause of death he did not get proper reply, and therefore, application was filed before Vagdod Police Station. Thereafter, postmortem was performed and complaint was filed. The accusations made in the compliant are duly supported by P.W. 1 Gafurbhai Visabhai

Makwana.

19. The prosecution examined P.W. 2 Kunvarji Bhimaji Thakor the panch to the inquest panchanama at Exh. 14. The evidence of this witness indicates that the hut from where the dead body was found belonged to Maganbhai Ganabhai and accused No. 3 Gajaraben and accused No.4 Maniben were residing there but the appellant was residing at other place in the same village. Inquest panchanama Exh. 15 indicates that the dead body was hanging inside the hut and it was decomposed. It also indicates that the dead body remained suspended at the height of 8”(eight inches) from ground. Looking to this height, it would be difficult to believe that a person would be able to commit suicide by hanging from such a low height ! Even assuming for the sake of argument that deceased hang himself even then he would have required some object to raise himself to the height for hanging but nothing is found near the place of the incident. Therefore, in our view, it is difficult to believe that the deceased committed suicide by hanging.

20. The prosecution examined P.W. 3 Amaratbhai Visabhai at Exh. 16. The witness was the brother of deceased Ramesh who gave application Exh. 17 to the police. The witness deposed about the

fact of deceased going to Sampra village and the appellant's coming to Ahmedabad to inform about sickness of Ramesh. The evidence indicates that the witness informed the police about the death of Ramesh in suspicious circumstances and thereafter inquest panchanama and panchanama of scene of offence were drawn. The application Exh. 17 was to the police to make investigation with regard to death of Ramesh and it was registered as accidental death by the police.

21. The prosecution also produced panchanama of cloth by which the deceased was hanged, at Exh. 19. It indicates that the piece of 'dhoti' was used for haning.

22. The prosecution also examined P.W. 5 Amthabhai Dhudabhai at Exh. 21. The witness accompanied the complainant and others from Ahmedabad to village Sampra and had noticed the dead body of Ramesh hanging in the hut of Maganbhai i.e. father of the appellant. The evidence also indicates that deceased Ramesh had good relations with the accused and was financially helping them. However, the witness denied having knowledge of illicit relations between Ramesh and accused Gajaraben. The witness also denied that the deceased committed suicide as accused Gajaraben refused to marry him.

23. The prosecution examined P.W. 6 Punjiben Joyatabhai, the wife of appellant at Exh. 22. The witness turned hostile and did not support the prosecution case. The witness was confronted with her police statement. In our view, the witness is the wife of the appellant. Therefore, she would naturally not support the prosecution. But on overall examination of the evidence, it appears that the appellant followed the deceased when he went to the hut of accused Gajaraben and thereafter returned late at night.

24. The prosecution proved contradictions of this witness through the evidence of the Investigating Officer P.W. 12 Shri Sikandarkhan Jalalkhan Sindhi at Exh. 32. In view of this evidence, it becomes clear that deceased Ramesh came to Sampra village on 20-9-1998 and the accused met him. Thereafter his dead body was found hanging. The evidence indicates that place from where the dead body was found was occupied by accused Gajaraben and accused Maniben. The appellant was closely related to them. It is true that there is no evidence that the hut was occupied by the appellant. However, considering the fact that the appellant was the brother of accused No. 3 Gajaraben and son of accused No. 4 Maniben he will have free access

to the hut occupied by them. Therefore, simply because the hut was not occupied by the appellant it cannot be said that he could not have committed the offence. One more fact is required to be considered that the deceased allegedly committed suicide on 20-9-1998 and the dead body remained in the hut till 23-9-1998. It is strange that none of the accused informed about alleged suicide either to the police or the family members of deceased Ramesh. On the contrary, the appellant informed the family members of Ramesh that he has fallen sick. This conduct of appellant raises strong suspicion of his involvement in the offence.

25, The prosecution produced the report about Accidental Death at Exh. 30. It indicates that it was made at 15-30 hours on 23-9-1998.

26. The prosecution examined P.W. 9 Ganeshbhai Dhuljibhai Chaudhari at Exh. 27. The witness carried out investigation in the case registered as accidental case and drew inquest panchanama Exh. 15 and panchanana of piece of 'dhoti' Exh. 18.

27. The prosecution examined P.W. 10 Viraji Varvaji Makwana at exh. 28. The witness recorded application Exh. 17as an accidental case.

28. The prosecution examined P.W. 11 Parthiji Kacharaji Solanki at Exh. 31 who recorded complaint Exh.13.

29. The prosecution examined Investigating Officer P.W. 12 Sikandarkhan Jalalkhan Sindhi at Exh. 32 who carried out the investigation with regard to the offence. However, the defence has not been able to elicit that death of Ramesh was suicidal or that proper investigation was not carried out.

30. In view of above, on examination of the evidence we are of the view that the appellant killed Ramesh by strangulation and then hanged his dead body in the hut and tried to make a show that he had committed suicide. The evidence clearly indicates involvement of the appellant in the commission of the offence. It also indicates that death of Ramesh was homicidal and not suicidal as alleged by the appellant. It is true that there is no evidence with regard to alleged financial advance made by deceased Ramesh to the accused. In the decision of Mulakh Raj, etc. V. Satish Kumar and others, reported AIR 1992 SUPREME COURT 1175, while examining the case of circumstantial evidence the Supreme Court has held as under :

“In cases of circumstantial evidence motive

bears important significance. Motive always locks up in the mind of the accused and some time it is difficult to unlock. People do not act wholly without motive. The failure to discover the motive of an offence does not signify its non-existence. The failure to prove motive is not fatal as a matter of law. Proof of motive is never an indispensable for conviction. When facts are clear it is immaterial that no motive has been proved. Therefore, absence of proof of motive does not break the link in the chain of circumstances connecting the accused with the crime, nor mitigates against the prosecution case."

31. In the present case, there is no dispute about the fact that Ramesh came to village Sampra. Even the appellant has admitted the presence of the deceased and has pleaded that deceased fell sick and thereafter died on account of sickness. The other accused raised a defence that Ramesh committed suicide. Therefore, contradictory defence has been taken by the accused. The evidence also indicates that the dead body remained in the hut from 20-9-1998 to 23-9-1998. Accused Gajaraben and Maniben have stated that the hut was occupied by them and the appellant was occupying other hut. Even accused Gajaraben has gone to the extent of saying that she had illicit relations with the deceased. In

our view, the defence is taken only with a view to save the appellant. Therefore, we are unable to accept that as the appellant was not residing in the hut, he could not have committed the offence and that Ramesh died on account of sickness. Moreover, the manner in which the dead body was hanging it is difficult to accept that it was a suicide. It is also significant that the accused did not inform the police about alleged suicide. Looking to the conduct of the appellant it cannot be said that he acted without any motive. Therefore, simply because the prosecution did not lead any evidence with regard to advance of money by the deceased to the accused, there was no motive on the part of the appellant to commit the offence, cannot be accepted. In view of above, the evidence indicates unbroken chain of circumstances implicating the appellant with the offence. Therefore, we do not find any merit in this appeal and hence same deserves to be dismissed.

32. In view of above, we are of the view that deceased Ramesh did not commit either suicide or died on account of sickness but he was strangulated to death and therefore the conviction of the appellant for the offence punishable u/s 302 of the I.P. Code has to sustain.

33. As regards the conviction for the offence punishable u/s 201 of the I.P. Code, the evidence indicates that the appellant with a view to disappear the evidence with an intention to screen himself from legal punishment gave false information that deceased Ramesh fell sick. The appellant also tried to screen himself from legal punishment by trying to show that the deceased committed suicide by hanging. Therefore, the learned trail Judge was justified in recording the conviction of the appellant u/s 201 of the I.P. Code.

34. For the reasons recorded in the judgment, present Criminal Appeal fails and is dismissed. The conviction of present appellant Joyatabhai Maganbhai Bhangi recorded by the learned Addl. Sessions Judge, Mehsana camp at Patan by the judgment and order dated 10-9-1999 in Sessions Case No.304 of 1998 for the offence punishable u/s 302 and 201 of the I.P. Code, is confirmed.

35. The muddamal be disposed of as directed by the trial court.

(A.L. Dave, J.)

(Bankim N. Mehta, J.)

/JVSatwara>